

# the ADR newsletter

## Partnering Applied to Hazardous Waste Project

In the past, this newsletter has reported on partnering applications in major construction projects. Judith Meier, of the Kansas City District, found another use for partnering—on the design and removal of underground storage tanks.



The first tank—50,000 gallons

Meier, a Technical Manager in the Environmental Branch of the Engineering Division, had 100 tanks to remove at the former Schilling Air Force Base, now a municipal airport. She applied the concept of “total environmental partnering” to Remedial Design (RD) and Remedial Actions (RAs) required to remove the tanks by involving design and construction firms, airport officials, regulators, and the Corps in the process.

She followed the classic partnering process:

- an initial partnering session with the architectural/engineering (A&E) firms, construction contractor and an outside facilitator;
- review by all parties of plans or specifications during their development;



Left to right:

Frank Steiert (retired), Construction Representative,  
Fort Riley Resident Office, Kansas City District, USACE

Tim Rogers, Executive Director, Salina Airport Authority

Judy Meier, Technical Manager, Kansas City District, USACE

- on-board reviews, either face-to-face or on the phone to go over comments, seek clarifications, and discuss proposed responses; and
- periodic follow-up partnering sessions as needed.

How did she think partnering helped her project? She had a lot of answers for that.

**More heads were involved in coming up with solutions.** Ideas raised by one person were built on by others, and the collective solution ended up better than what one individual would have come up with alone.

**Issues were resolved before they became problems.** Typical was the case in which someone identified the potential for petroleum levels in the excavated soil to exceed on-site treatment standards. The problem was resolved in about an hour over the phone.

**Money was saved.** There was less downtime. Time was spent on resolution of issues instead of on fault-finding or smoothing hurt

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## New Partnering Study Reports Preliminary Results

A draft report on a Corps-sponsored study of partnering projects finds that, overall, partnering has been successful for the Corps, but that some techniques and practices could be improved. David E. Anderson, an active duty captain in the U.S. Army, conducted the study for his graduate studies thesis at the University of Texas. It is based largely on written and oral information from Corps personnel, general contractors, and facilitators, all of whom had participated in Corps partnering projects.

In general, Anderson's study focuses on:

- techniques and practices which should be sustained in order to maximize the benefits of partnering and
- techniques and practices which, if implemented, will improve the Corps' performance in partnering.

As Anderson writes in his introduction:

The . . . Corps is one of the agencies credited with proliferating, if not inventing, partnering. In the late 1980s, the Corps' construction projects were extremely adversarial. Many projects ended in claims or litigation, and project costs were skyrocketing. [Since the first Corps use of partnering in 1988, p]artnering has been widely credited with changing the very nature of construction projects in the Corps.

A 1995 Corps study shows that construction-related litigation decreased to less than \$600 million in 1994, from an annual cost prior to 1989 of more than \$1 billion. Other studies indicate that, on partnered projects, cost increases, schedule growth, change order costs, and claims costs are all reduced, and that value engineering is nearly 15 times greater than non-partnered projects.

After reviewing the literature on partnering, Anderson analyzed responses to a "data call" on partnering from 11 of the Corps' 13 divisions; interviewed 20 general contractors who had partnered with the Corps; and interviewed or analyzed responses to questionnaires from 12 facilitators who had led Corps partnering sessions.

The research discusses partnering techniques and practices used through all stages of the process, from inputs (contract documents, partnering plan, and company culture) through project execution and follow-up, to administrative closure. Anderson identifies those that should be sustained and those that need improvement. Corps, contractor, and facilitator respondents don't always agree on the relative importance of a technique or practice, but in most cases they agree on its success or need for improvement.

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### WHAT IS PARTNERING?

*Partnering is "a project-focused process that builds and develops shared goals, interdependence, trust and commitment, and accountability among team members and that seeks to improve team members' problem solving skills."*

*—Construction Industry Institute, 1993*

Here is a sample of findings and recommendations from the report, including supporting quotations from a few respondents:

- Senior-level "buy-in" to the partnering process is outstanding.
- Focus more implementation effort on lower-level personnel. "To accomplish effective partnering requires training all employees in the partnering concept . . . and inclusion of the 'team building' concept in the project development process." — Norfolk District, North Atlantic Division
- Limit the number of Corps employees who attend partnering sessions—to avoid the impression of inequality.
- The facilitator must be jointly selected by all stakeholders.
- Continue to involve local sponsors and the ultimate user in the partnering process. "During the initial partnering session of this \$1.9 million project, the local sponsor identified a problem in the construction sequence which would expose the project to flooding in the event of a hurricane. A solution was mutually developed which was satisfactory to all stakeholders." — Galveston District, Southwestern Division
- Partnering is in danger of becoming "ritualistic" in some districts of the Corps. After seven years using partnering, some Corps employees and contractors have been through the same personality tests and team building exercises several times. The process is in danger of losing some of its potential benefits due to this repetition.
- Greater emphasis must be given to the importance of follow-up. Meeting periodically to follow up on the status and progress of a partnering relationship provides vital nurturing to a relationship which will inevitably wither and die without attention.
- Administrative closure is neglected in partnering. Successful endeavors should be jointly celebrated, employees' efforts should be recognized, and lessons learned should be collected for use in future processes.

Anderson's draft report concludes:

[The Corps'] partnering program is an extremely successful approach to improving construction projects. Ninety percent of interviewed contractors agreed that they would like to continue to partner with the Corps in the future. Additionally, 100 percent of interviewed facilitators stated that the Corps should continue to partner on construction projects.

The report on Anderson's study, entitled "Partnering Lessons Learned in the U.S. Army Corps of Engineers," is due to be published in spring 1997. ■

## Publications Found on the Internet

The following booklist may be of interest to ADR practitioners and others interested in ADR applications. You can find out more about these books—and even purchase most of them—by contacting Amazon Booksellers on the Internet. Their e-mail address is “www.Amazon.com.” Happy surfing!

- Alternative Dispute Resolution in the Workplace : Concepts and Techniques for Human Resource Executives and Their Counsel; E. Patrick McDermott, Arthur Eliot Berkeley; Hardcover; \$55.00
- ADR : A Practical Guide to Resolve Construction Disputes : Alternative Dispute Resolution in the Construction Field; American Arbitration Association; Hardcover; \$79.00 (Special Order)
- Alternative Dispute Resolution; Susan B. Meek; Paperback (Special Order)
- Alternative Dispute Resolution (The International Library of Essays in Law and Legal Theory); Michael Freeman; Hardcover; \$150.00 (Special Order)
- Alternative Dispute Resolution : Cases and Materials, 1990 Supplement (American Casebook); Leo Kanowitz; Paperback; \$14.00 (Special Order)
- Alternative Dispute Resolution and Risk Management : Controlling Conflict and Its Costs (Litigation and Administrative Practice Series H4-5032); Paperback; \$50.00 (Special Order)
- Alternative Dispute Resolution in a Nutshell; Jacqueline M. Nolan-Haley; Paperback; \$16.95 (Special Order)
- Alternative Dispute Resolution in the Construction Industry (Construction Law Library Series); Robert F. Cushman, et al; Hardcover; \$135.00 (Special Order)
- Alternative Dispute Resolution in the Construction Industry (Construction Law Library); Robert F. Cushman; Paperback; \$45.00 (Special Order)
- Alternative Dispute Resolution in the Public Sector; Miriam K. Mills; Hardcover; \$29.95 (Special Order)
- Construction Dispute Resolution : Arbitration and Mediation Alternatives (Construction Law Library); Robert J. Smith; Hardcover; \$125.00 (Not Yet Published)
- Dispute Resolution Alternatives 1994 Using ADR Effectively In-House and at the Law Firm : A Course Handbook; Richard Chernick; Paperback; \$99.00 (Special Order)
- Dispute Resolution Alternatives Supercourse; Paperback; \$70.00 (Special Order)
- Evaluating Agency Alternative Dispute Resolution Programs : A User's Guide to Data Collection and Use/Mr-534-Acus/Icj; Elizabeth Rolph, Erik Moller; Paperback; \$13.00 (Special Order)
- Law of Dispute Resolution : Arbitration and Alternative Dispute Resolution (Oceana's Legal Almanac Series: Law for the Layperson); Margaret C. Jasper; Hardcover; \$17.50 (Special Order)
- Legal Assistant's Guide to Alternative Dispute Resolution (Clark Boardman Callaghan/Estrin Paralegal Practice Series); Judy Quan; Hardcover; \$75.00 (Special Order)
- Managing Environmental Disputes: Network Management As an Alternative (Environment and Management, Vol. 5); Pieter Glasbergen; Hardcover; \$96.00 (Special Order)
- Sourcebook : Federal Agency Use of Alternative Means of Dispute Resolution; 52003010704, Millhouse; Paperback (Publisher Out Of Stock)

## Corps 1996 ADR Publications Listed

The Corps published these ADR resources in 1996, adding to its list that also includes research reports and case studies.

### Pamphlets

Overview of Alternative Dispute Resolution (ADR):

A Handbook for Corps Managers, July 1996 ..... 96-ADR-P-5

### Working Papers

Conflict Resolution, Collaboration and Management

In International Water Resource Issues,

May 1996 ..... 96-ADR-WP-6

Public Participation In Designing Our

Environmental Future, May 1996 ..... 96-ADR-WP-7

Partnering, Consensus Building, and Alternative Dispute

Resolution: Current Uses and Opportunities in the

U.S. Army Corps of Engineers ..... 96-ADR-WP-8

For a complete list of the Corps' ADR publications, contact:

Institute for Water Resources (USACE)

7701 Telegraph Rd., Alexandria, VA 22315-3868

or order these publications from:

National Technical Information Service

5285 Port Royal Road, Springfield, VA 22161

## More Corps Publications Planned for Spring

Between now and late spring, in addition to David E. Anderson's study of Corps partnering projects reported elsewhere in this newsletter, the Corps will release four ADR-related publications:

- ADR Pocket Guide, a summary of basic ADR principles;
- Public Involvement and Dispute Resolution, the second 10-year reader;
- a report describing the Corps of Engineers Early Resolution Program (CEERP) (the use of ADR in EEO complaints);
- a study of partnering cases in which there were problems.

Look for these publications in the spring! ■

Our distant forebears moved slowly from trial by battle and other barbaric means of resolving conflicts and disputes, and we must move away from total reliance on the adversary contest for resolving all disputes. For some disputes, trials by the adversarial contest must, in time, go the way of the ancient trial by battle and blood. Our system is too costly, too painful, too destructive, too inefficient for a truly civilized people. To rely on the adversarial process as the principal means of resolving conflicting claims is a mistake that must be corrected.

—Chief Justice Warren E. Burger,  
in his Annual Report on the State of the Judiciary at  
the mid-year meeting of the American Bar Association,  
February 12, 1984

**Partnering Applied to Hazardous Waste Project,**  
*continued from front page*

feelings. The good relationship with other stakeholders allowed for an agreement that the City would do some of the work. As a result, the total project cost, originally estimated at \$14 million, was only \$7.9 million.

What does a manager need in her tool kit to achieve successful partnering?

"A manager must understand the process a group needs to go through before they can work together," said Meier. "And a manager needs to know how to build trust, and to find ways to keep the information flowing."

Meier acknowledged the obstacles to partnering, most notably individuals who are essential to the project who don't buy into the process. And the time to maintain communications often seems hard to find.

When asked what surprised her most about partnering, Meier said,

"When it works, it really works. Ideas flow, and people come up with good solutions that everyone buys into, even if they don't like the process."

To promote the use of partnering, Meier thinks that success stories need to be shared, and that those who use it need help in showing cost and schedule savings, which sometimes, along with success with regulators and other participants, are difficult to quantify.

Meier's final point reinforces the theme of communications.

"The Corps needs a paradigm switch," she said. The Corps—and regulators—need to explain better to contractors what the needs are, and why—things that go beyond what's in the specs or the scope of work. "We are not good at that," she said. But it can make all the difference in meeting the needs of different groups.

Her example is telling. Airport officials were concerned that the trucks hauling the soil to the treatment site would venture onto active runways. The partnering team worked with the airport to develop a solution in which the airport helped establish the haul routes, placed barriers (at their expense) at points along the haul route where confusion could arise, and then, as evidence of their trust, gave the contractor access keys. The solution worked.

Ultimately, it seems, by improving communications, partnering improves projects. Ask Judy Meier. ■

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